

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)
)
)
v.) ID № 0002019767
)
)
Gerron Lindsey,)
Defendant.)

MOTION TO COMPEL DISCOVERY

COMES NOW, the State of Delaware, through Deputy Attorneys General Stuart Sklut and Donald R. Roberts, and respectfully requests this Court compel the defendant to provide the State with all discoverable materials immediately:

1. The defendant has failed to provide discoverable materials related to an expert witness despite repeated requests by the State and earlier admonitions by the Court. Notwithstanding that there have been earlier continuances solely attributable to the defense, this Court has denied the State's request for a continuance due to defendant's failure to produce the discoverable materials.
2. When the State fails to provide materials such as those requested from the defendant, it constitutes a violation of Rule 16, and is prejudicial to a defendant's rights. Indeed such a violation is reversible error. Skinner v. State, Del. Supr., 575 A.2d 1108 (1990).

3. Issues of possible "organic" mental problems with the defendant never surfaced or were mentioned by defense counsel until only as recently as January, 2002. At that point in time, there were apparently budgetary issues related to conflict counsel.
4. In response to the defendant's recent psychological examination (purportedly for defense introduction during the "penalty phase" only), the Court has ordered the defendant to undergo a psychiatric evaluation at the Delaware Psychiatric Center at the request of the State. The Delaware Psychiatric Center is now requesting from the State those same materials that the defense has failed to provide in discovery, so the defendant can be properly evaluated. (*See* attached email from Juanita Dennis).

WHEREFORE, in the interest of justice, the State of Delaware respectfully requests the Court fashion an appropriate remedy immediately.

Respectfully submitted,



Donald R. Roberts # 3536
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, Delaware 19801
577-8819

DATE: March 22, 2002

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)
v.) ID N° 0002019767
Gerron Lindsey,)
Defendant.)

ORDER

The State's Motion to Compel Discovery is GRANTED.

IT IS SO ORDERED this _____ day of _____, 2002, that

Judge Haile Alford
Superior Court of the State of Delaware
In and for New Castle County.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

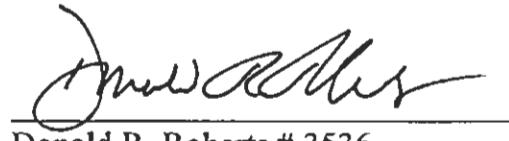
STATE OF DELAWARE)
)
)
v.) ID № 0002019767
)
)
Gerron Lindsey,)
Defendant.)

CERTIFICATE OF SERVICE

The undersigned Deputy Attorney General of the State of Delaware hereby certifies that two (2) copies of the attached Motion to Response were served by mail, fax and/or hand delivery on:

Sheryl Rush-Milstead, Esq.
First Federal Plaza, Suite 600
P.O. Box 1675
Wilmington, Delaware 19899-0600

Anthony Figliola, Esq.
1813-A Marsh Road
Wilmington, Delaware 19810

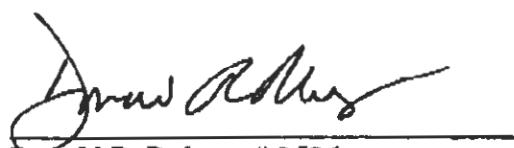

Donald R. Roberts # 3536
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, Delaware 19801
577-8819

DATE: March 22, 2002

3. Issues of possible "organic" mental problems with the defendant never surfaced or were mentioned by defense counsel until only as recently as January, 2002. At that point in time, there were apparently budgetary issues related to conflict counsel.
4. In response to the defendant's recent psychological examination (purportedly for defense introduction during the "penalty phase" only), the Court has ordered the defendant to undergo a psychiatric evaluation at the Delaware Psychiatric Center at the request of the State. The Delaware Psychiatric Center is now requesting from the State those same materials that the defense has failed to provide in discovery, so the defendant can be properly evaluated. (See attached email from Juanita Dennis).

WHEREFORE, in the interest of justice, the State of Delaware respectfully requests the Court fashion an appropriate remedy immediately.

Respectfully submitted,



Donald R. Roberts # 3536
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, Delaware 19801
577-8819

DATE: March 22, 2002

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

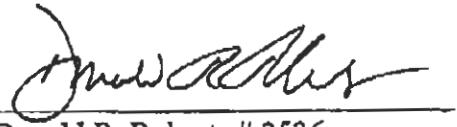
STATE OF DELAWARE)
)
)
v.) ID № 0002019767
)
)
Gerron Lindsey,)
Defendant.)

CERTIFICATE OF SERVICE

The undersigned Deputy Attorney General of the State of Delaware hereby certifies that two (2) copies of the attached Motion to Response were served by mail, fax and/or hand delivery on:

Sheryl Rush-Milstead, Esq.
First Federal Plaza, Suite 600
P.O. Box 1675
Wilmington, Delaware 19899-0600

Anthony Figliola, Esq.
1813-A Marsh Road
Wilmington, Delaware 19810


Donald R. Roberts # 3536
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, Delaware 19801
577-8819

DATE: March 22, 2002

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

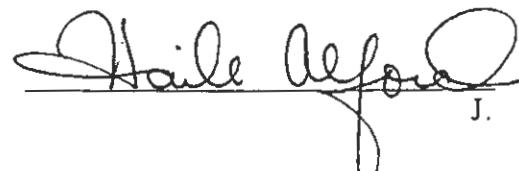
IN AND FOR NEW CASTLE COUNTY

State of Delaware)
)
)
v.) Def. ID #0002019767
)
)
Gerron M. Lindsey,)
)
)
Defendant.)

ORDER

NOW, this 21st day of March, 2002, it appears to the Court as follows:

IT IS HEREBY ORDERED that the Defendant be transported by the Dept. of Corrections immediately to the Delaware Psychiatric Center for the purpose of conducting a psychiatric evaluation and any potential psychological testing of Defendant at the Mitchell Building, Delaware Psychiatric Center. The report will be submitted to the Court on or before April 12, 2002 upon completion of the evaluation. The Defendant is to be transported back to the Delaware Correctional Center from the Delaware Psychiatric Center by the Dept. of Correction.



J.

ORIGINAL: PROTHONOTARY'S OFFICE - CRIMINAL DIV.
cc: Diane Stachowski - DE Psychiatric Center (VIA FAX)
DCC Records Dept.(VIA FAX)
Stuart Sklut, Esq. - AG's Office
Donald Roberts, Esq. - AG's Office
Anthony Figliola, Esq. - Defense Counsel
Sheryl Rush-Milstead, Esq. - Defense Counsel